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Attorneys for Counter Claimant
KING TACO RESTAURANT, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSE AMADOR JACOBO,

Plaintiff,

vs.

KING TACO RESTAURANT, INC.,
etc.

Defendant.

CASE NO. 2-17-CV-02178 JAK

COUNTERCLAIM FOR UNFAIR
BUSINESS PRACTICES; BREACH OF
COVENANT OF GOOD FAITH/FAIR
DEALING; TRESPASS; AND
INTENTIONAL INTERFERENCE WITH
CONTRACTUAL RELATIONS., AND
NEGLIGENCE

*[ASSIGNED FOR ALL PURPOSES TO THE HONORABLE
JOHN A. KRONSTADT, COURTROOM 840]*

KING TACO RESTAURANT, INC., a
California Corporation,

Counter Claimant

Vs.

JOSE AMADOR JACOBO, and Roes
1 through 10, inclusive.

Counter Defendant

COMPLAINT FILED: March 20, 2017

TRIAL DATE: None Assigned

COINTER CLAIMANT, KING TACO RESTAURANT, INC., for itself, and itself alone
counterclaims to plaintiff's complaint as follows:

COMMON FACTS

1. Counter claimant is, and at all times herein mentioned was, a corporation duly

COUNTERCLAIM

1 organized and existing under the laws of the State of California, with its principal place of
2 business in the County of Los Angeles, State of California.

3 2. Counter defendants, Jose Amador Jacobo and Roes 1 through 10, inclusive, are,
4 and at all times herein mentioned were, a residents of the County of Los Angeles, State of
5 California

6 3. Counter claimant is unaware of the true names and capacities of counter
7 defendants sued herein as Roes 1 through 10, and therefore sues said counterdefendants by
8 such fictitious names. It is informed and believes, and upon such information and belief
9 alleges, that each of the counter defendants designated herein as a Roe, is legally responsible
10 in some manner or fashion for some or all of the events and happenings claimed herein.
11 Counter claimant will seek leave of court to show the true names and capacities of the
12 Counter defendants so designated when the same have been ascertained.

13 4. Counter claimant is informed and believes, and thereupon alleges, that, at all
14 times herein mentioned, counter defendants, Jose Amador Jacobo and Roes 1 through 10,
15 inclusive were the agents or employees of each of the others, and in doing or omitting the
16 things hereinafter alleged, were acting within the course and scope of such agency or
17 employment.

18 5. Counter claimant is the owner and operator of a certain restaurant business
19 located at 1951 South San Pedro Street, Los Angeles, California..

20 6. Counter defendant alleges in his complaint that he is a disabled person confined
21 to a wheelchair, and that on January 3, 2017 and February 6, 2017, he visited counter
22 claimant's restaurant referred to in his complaint, but because certain accommodations
23 required by law were not furnished by counter claimant, he was denied equal access under
24 the federal Americans with Disabilities, California Disabled Persons, and the California
25 Unruh acts.

26 FIRST Counter CLAIM AGAINST Counter DEFENDANTS JOSE AMADOR JACOBO

27 AND ROES 1-5, INCLUSIVE

28 UNFAIR BUSINESS PRACTICE

COUNTERCLAIM

1 a. Counter claimant realleges paragraphs 1 through 6, inclusive of the Common Facts;
2 with the same force and effect as though herein set forth in full.

3 b. Counter defendants engage in the business of generating, initiating, and perpetuating
4 claims against businesses in various counties in the State of California, including, but not
5 limited to counter claimant's business, by entering upon such business premises under false
6 pretenses, formulating claims for lack of disability access, filing legal actions on those claims,
7 seeking compensation without actual injury, and attempting to extract money from said
8 business establishments, including, counter claimant, for itself, and itself alone, all the while
9 engaging in unfair practices prohibited by Business and Professions code, Section 17200, *et.*
10 *seq.*

11 c. As a proximate result of counter defendants' conduct counter claimant sustained
12 special damages in an amount unascertained at the present time, and it will request leave of
13 court to amend the complaint to show the actual damages when the same are ascertained, or
14 to show them according to proof at the time of trial.

15 d. Counter defendants engaged in such conduct with conscious disregard of counter
16 claimant's rights and the rights of its business operations, and undertook such conduct
17 wilfully and with fraud and oppression such as to justify an award of punitive damages,
18 according to proof.

19 e. Cross claimant is informed and believes, and upon such information and belief
20 alleges that Cross defendants at various times has filed in excess of 50 similar cases in various
21 county and federal districts in the State of California.

22 SECOND CROSS CLAIM AGAINST CROSS DEFENDANTS JOSE AMADOR

23 JACOBO AND ROES 1-5, INCLUSIVE

24 BREACH OF IMPLIED COVENANT OF GOOD/FAIR DEALINGS

25 a. Cross claimant realleges paragraphs 1 through 7, inclusive of the Common Facts;
26 with the same force and effect as though herein set forth in full

27 b. On or about the date counter defendant, Jacobo set forth in his complaint as the dates
28 alleged injuries occurred, he entered upon counter complainant's property under the purported

1 guise of being a regular customer of establishments on that property. After such entry counter
 2 defendant exceeded the limited consent to enter as a customer and wrongfully and unlawfully
 3 engaged in divergent conduct without counter claimant's consent, and thereupon conducted
 4 his own self serving pre-litigation discovery on the premises, including but not limited to
 5 taking photographs of the facilities without counter claimant's consent, loitered upon the
 6 premises while posing as a customer of counter claimant, took over possession of certain
 7 areas of the property for his own use and business purposes to the exclusion of counter
 8 Claimant's bonafide visitors, and interfered with its normal conduction of its business.

9 c. As a proximate result of counter defendants' conduct counter claimant sustained
 10 special damages in an amount unascertained at the present time, and it will request leave of
 11 court to amend the counterclaim to show the actual damages when the same are ascertained,
 12 or to show them according to proof at the time of trial.

13 d. Counter defendants engaged in such conduct with conscious disregard of counter
 14 claimant's rights and the rights of its business operations, and undertook such conduct
 15 wilfully and with fraud and oppression such as to justify an award of punitive damages,
 16 according to proof.

17 THIRD CROSS CLAIM AGAINST CROSS DEFENDANTS JOSE AMADOR JACOBO

18 AND ROES 1-5, INCLUSIVE

19 INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONSHIP

20 a. Counter claimant realleges paragraphs 1 through 6, inclusive of the Common Facts;
 21 with the same force and effect as though herein set forth in full.

22 b. On or about the date plaintiff set forth in his complaint as the date his alleged
 23 injuries occurred, he entered upon counter claimant's property under the purported guise of
 24 being a regular customer of establishments on that property. After such entry plaintiff
 25 exceeded the limited consent to enter as a customer and wrongfully and unlawfully engaged
 26 in divergent conduct, without counter claimant's consent, and thereupon conducted his own
 27 self serving pre-litigation discovery on the premises, including but not limited to taking
 28 photographs of the facilities without counter claimant's consent, loitered upon the premises

1 while posing as a customer of counter claimant, took over possession of certain areas of the
 2 property for his own use and business purposes to the exclusion of counter claimant's
 3 bonafide visitors, and interfered with its normal conduction of its business.

4 c. As a proximate result of counter defendant's conduct counter claimant sustained
 5 special damages in an amount unascertained at the present time, and it will request leave of
 6 court to amend the counterclaim to show the actual damages when the same are ascertained,
 7 or to show them according to proof at the time of trial.

8 d. Counter defendants, Roes 1 through 5 and each of them engaged in such conduct
 9 with conscious disregard of counter claimant's rights and the rights of its business operations,
 10 and undertook such conduct wilfully and with fraud and oppression such as to justify an
 11 award of punitive damages, according to proof.

12 FOURTH CROSS CLAIM AGAINST CROSS DEFENDANTS JOSE AMADOR

13 JACOBO AND ROES 1-5, INCLUSIVE

14 TRESPASS

15 a. Counter claimant realleges paragraphs 1 through 6, inclusive of the Common Facts;
 16 with the same force and effect as though herein set forth in full.

17 b. On or about the date cf set forth in his complaint as the dates his alleged injuries
 18 occurred, counter defendant entered upon claimant's property under the purported guise of
 19 being a regular customer of establishments on that property. After such entry counter
 20 defendant exceeded the limited consent to enter as a customer and wrongfully and unlawfully
 21 engaged in divergent conduct, without counter claimant's consent, and thereupon conducted
 22 his own self serving pre-litigation discovery on the premises, including but not limited to
 23 taking photographs of the facilities without counter claimant's consent, loitered upon the
 24 premises while posing as a customer of counter claimant, took over possession of certain
 25 areas of the property for his own use and business purposes to the exclusion of counter
 26 claimant's bonafide visitors, and interfered with its normal conduction of its business.

27 c. As a proximate result of counter defendants' conduct counter claimant sustained
 28 special damages in an amount unascertained at the present time, and it will request leave of

1 court to amend the complaint to show the actual damages when the same are ascertained, or
2 to show them according to proof at the time of trial.

3 d. Counter defendants engaged in such conduct with conscious disregard of counter
4 claimant's rights and the rights of its business operations, and undertook such conduct
5 wilfully and with fraud and oppression such as to justify an award of punitive damages,
6 according to proof.

7 FIFTH CROSS CLAIM AGAINST CROSS DEFENDANTS, JACOBO AND
8 ROES 5-10, INCLUSIVE
9 NEGLIGENCE

10 a. drealleges paragraphs 1 through 6, inclusive of the Common Facts; with the same
11 force and effect as though herein set forth in full.

12 b. Counter defendants had a duty observe the premises thoroughly to determine whether
13 they were not in compliance with the Americans With Disabilities Act. They breached that
14 duty by negligently failing to observe that the parking facilities were in compliance with the
15 act, and as a direct and proximate result of his negligence, counter claimant sustained
16 damages for expenses for answering the complaint and proceeding thereon including, but not
17 limited to court costs and attorney fees, and other damages, the exact nature and extent of
18 which are unknown to counter claimant, and it requests leave of court to amend this
19 countercomplaint when the same are ascertained.

20 Counter claimant prays:

21 1. For damages as shown by an amended or supplemental counter claim or according
22 to proof;

23 2. For punitive damages according to proof;

24 3. For attorney's fees, court costs, investigative costs and other expenses incurred in
25 the defense of the complaint according to proof;

26 4. For costs of suit; and

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DATED: August 2, 2017

FRANK P. ROSEN, Attorney for Counter
Claimant, King Taco Restaurant.